

**SUPPLEMENTAL INFORMATION SHEET
FORM RR01**

PURPOSE OF PROPOSED ACTION (#4)

The purpose of the proposed action is to establish procedures, standards and requirements for the certification of laboratories performing tests and analyses required by the Virginia Waste Management Act and the State Water Control Law. The program established by the regulation will ensure that these laboratories provide accurate and consistent tests, analyses, measurements and monitoring.

WRITTEN COMMENTS (#7)

Public comments may be submitted until 4:30 p.m., October 1, 1998 to the Director, Bureau of Customer Services, Division of Consolidated Laboratory Services, 1 North 14th Street, Richmond, Virginia 23219.

OTHER PERTINENT INFORMATION

PUBLIC MEETING: A public meeting will be held by the Division in House Room 1, State Capitol Building, Capitol Square, Richmond, Virginia, 23219, at 10:30 a.m. on Wednesday, September 30, 1998 to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

AD HOC ADVISORY GROUP: The Department will form an ad hoc advisory group to assist in the development of the regulation. If you desire to be on the group, notify the agency contact in writing by 4:30 p.m. October 1, 1998 and provide your name, address, phone number and the organization you represent (if any). Notification of the composition of the ad hoc advisory group will be sent to all applicants. If you wish to be on the group, you are encouraged to attend the public meeting mentioned above. The primary function of the group is to develop recommended regulation amendments for Department consideration through the collaborative approach of regulatory negotiation and consensus.

PUBLIC HEARING PLANS: After publication in the *Virginia Register of Regulations*, the Department will hold at least one public hearing to provide opportunity for public comment on any regulation amendments drafted pursuant to this notice.

NEED: The contemplated regulation is essential (i) to protect the health, safety or welfare of citizens and (ii) for the efficient and economical performance of an important governmental function. The reasoning for this conclusion is set forth below.

Compliance with the State Water Control Law and the Virginia Waste Management Act is determined, to a great extent, by the analysis of samples and other measurements taken of Virginia's water and terrain. Accurate and consistent analysis of these samples ensures that the determination of compliance with Virginia's water quality and waste management laws is also accurate and consistent. In turn, the health and welfare of the people of the Commonwealth are protected. And, in addition, samples from those

parties whose compliance is being determined are analyzed in an equally consistent and accurate fashion.

Certifying laboratories that do consistent and accurate analyses ensures efficient and economical implementation of the state's water and waste laws. The state agency responsible for carrying out the laws will be assured that they can rely upon the analytical results of certified laboratories in determining compliance with these laws.

In addition, the state law requires the use of nationally accepted accreditation standards. Virginia's water quality and waste management laws and regulations are mandated in part by federal statute and regulation. Because the federal government funds the implementation of these laws in the state to some extent, it also determines whether the state agency carrying out these federal mandates is doing an acceptable job. An accurate, consistent and verifiable analysis in certified laboratories of samples taken to determine compliance provides assurance of the state's competency in implementing federal mandates on water quality and waste management.

ALTERNATIVES: Alternatives to the proposed regulation amendments being considered by the Department are discussed below.

1. Develop the regulation to satisfy the provisions of the law and federal standards and policies. This option is being selected because it meets the stated purpose of the regulatory action: to ensure that laboratories perform accurate and consistent tests, analyses, measurements and monitoring required by the Virginia Waste Management Act and the State Water Control Law.
2. Make alternative regulatory changes to those required by the provisions of the law and federal standards and policies. This option is not being selected because it does not meet the stated purpose of the regulation and may not be consistent with state law and federal standards and policies.
3. Take no action to develop the regulation. This option is not being selected because state law requires that a regulation be developed.

APPLICABLE STATUTORY REQUIREMENTS: The contemplated regulation is mandated by state law. A succinct statement of the source (including legal citation) and scope of the mandate may be found below.

Section 2.1-429.01 of the Code of Virginia (Title 2.1, Chapter 32) requires that the Division of Consolidated Laboratory Services establish a program by regulation that will certify laboratories conducting tests, analyses, measurements, or monitoring pursuant to the Virginia Waste Management Act (§10.1-1400 et seq.) or the State Water Control Law (§62.1-44.2 et seq.). The program is to be based on standards adopted by the National Environmental Laboratory Accreditation Conference sponsored by the U.S. Environmental Protection Agency to ensure accurate and consistent testing and analysis by the certified laboratories.

The state law requires that the program include minimum criteria for the following: (1) laboratory procedures; (2) performance evaluations; (3) supervisory and personnel requirements; (4) facilities and

equipment; (5) analytical quality control and quality assurance; (6) certificate issuance and maintenance; (7) recertification and decertification; and (8) granting full and partial exemptions from the program based on compliance and performance. The law also requires that a fee system be established to pay for the costs of certifying laboratories under this program. Procedures for determining the qualifications of laboratories outside of Virginia used to conduct tests and analyses for use in Virginia must also be developed under §2.1-429.01. In addition, the law allows other components to be added to the program.